



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB4988**

by Rep. Julie Hamos

#### SYNOPSIS AS INTRODUCED:

55 ILCS 75/2	from Ch. 23, par. 2682
705 ILCS 405/5-410	
730 ILCS 5/3-10-8	from Ch. 38, par. 1003-10-8

Amends the County Shelter Care and Detention Home Act. Makes a technical change in a Section concerning minimum standards for shelter care homes and detention homes. Amends the Juvenile Court Act of 1987. Makes a technical change in a Section concerning non-secure custody and detention. Amends the Unified Code of Corrections. Makes a technical change in a Section concerning discipline in facilities of the Department of Juvenile Justice.

LRB095 17571 RLC 45540 b

1 AN ACT concerning juveniles.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The County Shelter Care and Detention Home Act  
5 is amended by changing Section 2 as follows:

6 (55 ILCS 75/2) (from Ch. 23, par. 2682)

7 Sec. 2. Each county shelter care home and ~~and~~ detention  
8 home authorized and established by this Act shall comply with  
9 minimum standards established by the Department of Juvenile  
10 Justice. No neglected or abused minor, addicted minor,  
11 dependent minor or minor requiring authoritative intervention,  
12 as defined in the Juvenile Court Act of 1987, or minor alleged  
13 to be such, may be detained in any county detention home.

14 (Source: P.A. 94-696, eff. 6-1-06.)

15 Section 10. The Juvenile Court Act of 1987 is amended by  
16 changing Section 5-410 as follows:

17 (705 ILCS 405/5-410)

18 Sec. 5-410. Non-secure custody or detention.

19 (1) Any minor arrested or taken into custody pursuant to  
20 this ~~this~~ Act who requires care away from his or her home but  
21 who does not require physical restriction shall be given

1 temporary care in a foster family home or other shelter  
2 facility designated by the court.

3 (2) (a) Any minor 10 years of age or older arrested  
4 pursuant to this Act where there is probable cause to believe  
5 that the minor is a delinquent minor and that (i) secured  
6 custody is a matter of immediate and urgent necessity for the  
7 protection of the minor or of the person or property of  
8 another, (ii) the minor is likely to flee the jurisdiction of  
9 the court, or (iii) the minor was taken into custody under a  
10 warrant, may be kept or detained in an authorized detention  
11 facility. No minor under 12 years of age shall be detained in a  
12 county jail or a municipal lockup for more than 6 hours.

13 (b) The written authorization of the probation officer or  
14 detention officer (or other public officer designated by the  
15 court in a county having 3,000,000 or more inhabitants)  
16 constitutes authority for the superintendent of any juvenile  
17 detention home to detain and keep a minor for up to 40 hours,  
18 excluding Saturdays, Sundays and court-designated holidays.  
19 These records shall be available to the same persons and  
20 pursuant to the same conditions as are law enforcement records  
21 as provided in Section 5-905.

22 (b-4) The consultation required by subsection (b-5) shall  
23 not be applicable if the probation officer or detention officer  
24 (or other public officer designated by the court in a county  
25 having 3,000,000 or more inhabitants) utilizes a scorable  
26 detention screening instrument, which has been developed with

1 input by the State's Attorney, to determine whether a minor  
2 should be detained, however, subsection (b-5) shall still be  
3 applicable where no such screening instrument is used or where  
4 the probation officer, detention officer (or other public  
5 officer designated by the court in a county having 3,000,000 or  
6 more inhabitants) deviates from the screening instrument.

7 (b-5) Subject to the provisions of subsection (b-4), if a  
8 probation officer or detention officer (or other public officer  
9 designated by the court in a county having 3,000,000 or more  
10 inhabitants) does not intend to detain a minor for an offense  
11 which constitutes one of the following offenses he or she shall  
12 consult with the State's Attorney's Office prior to the release  
13 of the minor: first degree murder, second degree murder,  
14 involuntary manslaughter, criminal sexual assault, aggravated  
15 criminal sexual assault, aggravated battery with a firearm,  
16 aggravated or heinous battery involving permanent disability  
17 or disfigurement or great bodily harm, robbery, aggravated  
18 robbery, armed robbery, vehicular hijacking, aggravated  
19 vehicular hijacking, vehicular invasion, arson, aggravated  
20 arson, kidnapping, aggravated kidnapping, home invasion,  
21 burglary, or residential burglary.

22 (c) Except as otherwise provided in paragraph (a), (d), or  
23 (e), no minor shall be detained in a county jail or municipal  
24 lockup for more than 12 hours, unless the offense is a crime of  
25 violence in which case the minor may be detained up to 24  
26 hours. For the purpose of this paragraph, "crime of violence"

1 has the meaning ascribed to it in Section 1-10 of the  
2 Alcoholism and Other Drug Abuse and Dependency Act.

3 (i) The period of detention is deemed to have begun  
4 once the minor has been placed in a locked room or cell or  
5 handcuffed to a stationary object in a building housing a  
6 county jail or municipal lockup. Time spent transporting a  
7 minor is not considered to be time in detention or secure  
8 custody.

9 (ii) Any minor so confined shall be under periodic  
10 supervision and shall not be permitted to come into or  
11 remain in contact with adults in custody in the building.

12 (iii) Upon placement in secure custody in a jail or  
13 lockup, the minor shall be informed of the purpose of the  
14 detention, the time it is expected to last and the fact  
15 that it cannot exceed the time specified under this Act.

16 (iv) A log shall be kept which shows the offense which  
17 is the basis for the detention, the reasons and  
18 circumstances for the decision to detain and the length of  
19 time the minor was in detention.

20 (v) Violation of the time limit on detention in a  
21 county jail or municipal lockup shall not, in and of  
22 itself, render inadmissible evidence obtained as a result  
23 of the violation of this time limit. Minors under 17 years  
24 of age shall be kept separate from confined adults and may  
25 not at any time be kept in the same cell, room or yard with  
26 adults confined pursuant to criminal law. Persons 17 years

1 of age and older who have a petition of delinquency filed  
2 against them may be confined in an adult detention  
3 facility. In making a determination whether to confine a  
4 person 17 years of age or older who has a petition of  
5 delinquency filed against the person, these factors, among  
6 other matters, shall be considered:

7 (A) The age of the person;

8 (B) Any previous delinquent or criminal history of  
9 the person;

10 (C) Any previous abuse or neglect history of the  
11 person; and

12 (D) Any mental health or educational history of the  
13 person, or both.

14 (d) (i) If a minor 12 years of age or older is confined in a  
15 county jail in a county with a population below 3,000,000  
16 inhabitants, then the minor's confinement shall be implemented  
17 in such a manner that there will be no contact by sight, sound  
18 or otherwise between the minor and adult prisoners. Minors 12  
19 years of age or older must be kept separate from confined  
20 adults and may not at any time be kept in the same cell, room,  
21 or yard with confined adults. This paragraph (d) (i) shall only  
22 apply to confinement pending an adjudicatory hearing and shall  
23 not exceed 40 hours, excluding Saturdays, Sundays and court  
24 designated holidays. To accept or hold minors during this time  
25 period, county jails shall comply with all monitoring standards  
26 promulgated by the Department of Corrections and training

1 standards approved by the Illinois Law Enforcement Training  
2 Standards Board.

3 (ii) To accept or hold minors, 12 years of age or older,  
4 after the time period prescribed in paragraph (d)(i) of this  
5 subsection (2) of this Section but not exceeding 7 days  
6 including Saturdays, Sundays and holidays pending an  
7 adjudicatory hearing, county jails shall comply with all  
8 temporary detention standards promulgated by the Department of  
9 Corrections and training standards approved by the Illinois Law  
10 Enforcement Training Standards Board.

11 (iii) To accept or hold minors 12 years of age or older,  
12 after the time period prescribed in paragraphs (d)(i) and  
13 (d)(ii) of this subsection (2) of this Section, county jails  
14 shall comply with all programmatic and training standards for  
15 juvenile detention homes promulgated by the Department of  
16 Corrections.

17 (e) When a minor who is at least 15 years of age is  
18 prosecuted under the criminal laws of this State, the court may  
19 enter an order directing that the juvenile be confined in the  
20 county jail. However, any juvenile confined in the county jail  
21 under this provision shall be separated from adults who are  
22 confined in the county jail in such a manner that there will be  
23 no contact by sight, sound or otherwise between the juvenile  
24 and adult prisoners.

25 (f) For purposes of appearing in a physical lineup, the  
26 minor may be taken to a county jail or municipal lockup under

1 the direct and constant supervision of a juvenile police  
2 officer. During such time as is necessary to conduct a lineup,  
3 and while supervised by a juvenile police officer, the sight  
4 and sound separation provisions shall not apply.

5 (g) For purposes of processing a minor, the minor may be  
6 taken to a County Jail or municipal lockup under the direct and  
7 constant supervision of a law enforcement officer or  
8 correctional officer. During such time as is necessary to  
9 process the minor, and while supervised by a law enforcement  
10 officer or correctional officer, the sight and sound separation  
11 provisions shall not apply.

12 (3) If the probation officer or State's Attorney (or such  
13 other public officer designated by the court in a county having  
14 3,000,000 or more inhabitants) determines that the minor may be  
15 a delinquent minor as described in subsection (3) of Section  
16 5-105, and should be retained in custody but does not require  
17 physical restriction, the minor may be placed in non-secure  
18 custody for up to 40 hours pending a detention hearing.

19 (4) Any minor taken into temporary custody, not requiring  
20 secure detention, may, however, be detained in the home of his  
21 or her parent or guardian subject to such conditions as the  
22 court may impose.

23 (Source: P.A. 93-255, eff. 1-1-04.)

24 Section 15. The Unified Code of Corrections is amended by  
25 changing Section 3-10-8 as follows:

1 (730 ILCS 5/3-10-8) (from Ch. 38, par. 1003-10-8)  
2 Sec. 3-10-8. Discipline.)

3 (a) (1) Corporal punishment and ~~and~~ disciplinary  
4 restrictions on diet, medical or sanitary facilities,  
5 clothing, bedding or mail are prohibited, as are reductions in  
6 the frequency of use of toilets, washbowls and showers.

7 (2) Disciplinary restrictions on visitation, work,  
8 education or program assignments, the use of toilets, washbowls  
9 and showers shall be related as closely as practicable to abuse  
10 of such privileges or facilities. This paragraph shall not  
11 apply to segregation or isolation of persons for purposes of  
12 institutional control.

13 (3) No person committed to the Department of Juvenile  
14 Justice may be isolated for disciplinary reasons for more than  
15 7 consecutive days nor more than 15 days out of any 30 day  
16 period except in cases of violence or attempted violence  
17 committed against another person or property when an additional  
18 period of isolation for disciplinary reasons is approved by the  
19 chief administrative officer. A person who has been isolated  
20 for 24 hours or more shall be interviewed daily by his staff  
21 counselor or other staff member.

22 (b) The Department of Juvenile Justice shall establish  
23 rules and regulations governing disciplinary practices, the  
24 penalties for violation thereof, and the disciplinary  
25 procedure by which such penalties may be imposed. The rules of

1 behavior shall be made known to each committed person, and the  
2 discipline shall be suited to the infraction and fairly  
3 applied.

4 (c) All disciplinary action imposed upon persons in  
5 institutions and facilities of the Department of Juvenile  
6 Justice shall be consistent with this Section and Department  
7 rules and regulations adopted hereunder.

8 (d) Disciplinary action imposed under this Section shall be  
9 reviewed by the grievance procedure under Section 3-8-8.

10 (e) A written report of any infraction for which discipline  
11 is imposed shall be filed with the chief administrative officer  
12 within 72 hours of the occurrence of the infraction or the  
13 discovery of it and such report shall be placed in the file of  
14 the institution or facility.

15 (f) All institutions and facilities of the Department of  
16 Juvenile Justice shall establish, subject to the approval of  
17 the Director of Juvenile Justice, procedures for disciplinary  
18 cases except those that may involve the imposition of  
19 disciplinary isolation; delay in referral to the Parole and  
20 Pardon Board or a change in work, education or other program  
21 assignment of more than 7 days duration.

22 (g) In disciplinary cases which may involve the imposition  
23 of disciplinary isolation, delay in referral to the Parole and  
24 Pardon Board, or a change in work, education or other program  
25 assignment of more than 7 days duration, the Director shall  
26 establish disciplinary procedures consistent with the

1 following principles:

2 (1) Any person or persons who initiate a disciplinary  
3 charge against a person shall not decide the charge. To the  
4 extent possible, a person representing the counseling  
5 staff of the institution or facility shall participate in  
6 deciding the disciplinary case.

7 (2) Any committed person charged with a violation of  
8 Department rules of behavior shall be given notice of the  
9 charge including a statement of the misconduct alleged and  
10 of the rules this conduct is alleged to violate.

11 (3) Any person charged with a violation of rules is  
12 entitled to a hearing on that charge at which time he shall  
13 have an opportunity to appear before and address the person  
14 or persons deciding the charge.

15 (4) The person or persons deciding the charge may also  
16 summon to testify any witnesses or other persons with  
17 relevant knowledge of the incident. The person charged may  
18 be permitted to question any person so summoned.

19 (5) If the charge is sustained, the person charged is  
20 entitled to a written statement of the decision by the  
21 persons deciding the charge which shall include the basis  
22 for the decision and the disciplinary action, if any, to be  
23 imposed.

24 (6) A change in work, education, or other program  
25 assignment shall not be used for disciplinary purposes  
26 except as provided in paragraph (a) of the Section and then

1           only after review and approval under Section 3-10-3.

2           (Source: P.A. 94-696, eff. 6-1-06.)